

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
SOUTHERN DIVISION  
No. 7:12-CV-314-FL

UNITED STATES OF AMERICA,

Plaintiff,

v.

MCDANIEL PERSONAL PROPERTY,  
SPECIFICALLY DESCRIBED AS:  
A 2004 CADILLAC ESCALADE,  
VIN: 1GYEK63NX4R103870,  
AND ANY AND ALL ATTACHMENTS  
THEREON; AND ANY AND ALL  
PROCEEDS FROM SALE OF SAID  
PROPERTY,

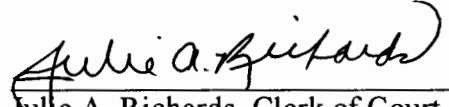
Defendant.

**ORDER DENYING  
ENTRY OF DEFAULT**

On October 31, 2012, the United States of America (“United States of America” or “plaintiff”) filed this civil action in rem under 21 U.S.C. § 881(a)(4) for forfeiture against McDaniel Personal Property, specifically described as a 2004 Cadillac Escalade, VIN: 1GYEK63NX4R103870 (“vehicle”), and any and all attachments thereon; and any and all proceeds from the sale of said property (“defendant”) [D.E. 1]. According to the declaration of Harold W. Jordan, Special Agent, Drug Enforcement Administration, United States Department of Justice, the vehicle is owned by Eric Eldon McDaniel (“McDaniel”) [D.E. 1-1]. Plaintiff filed affidavits of service on the vehicle [D.E. 7] and McDaniel [D.E. 8]. On July 25, 2013, the United States of America moved for entry of default against defendant for failure to file an answer or otherwise respond [D.E. 11]. On August 14, 2013, McDaniel filed a claim to the vehicle [D.E. 14]. The motion for entry of default is before the undersigned for disposition.

Rule 55(a) of the Federal Rules of Civil Procedure provides for entry of default against a party who "has failed to plead or otherwise defend." Because McDaniel filed a claim or response to the complaint, default is not appropriate. Therefore, plaintiff's motion for entry of default is DENIED [D.E. 11] and plaintiff's motion for default judgment is DENIED as moot [D.E. 12].

SO ORDERED. This 1<sup>st</sup> day of September, 2013.

  
Julie A. Richards, Clerk of Court